IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 952 OF 2005

Sunil Lazarous Anthony ...Applicant

Versus

State Bank of India & Anr ...Respondents

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Mr. Subodh Desai, Advocate for Applicant.

Mr. Raunak Shah, Adocate for Respondent No.1.

Mr. V.B. Konde Deshmukh, A.P.P. for State.

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CORAM: SMT. V.K. TAHILRAMANI, J.

DATED: 8TH AUGUST, 2005

P. C.:-

1. Heard the learned advocate for the applicant, the learned advocate for the respondent No.1 i.e. original complainant and the learned A.P.P. for the State.

2. The learned advocate for the applicant states that at present he is not pressing the prayer for transfer of the proceedings from the Court of J.M.F.C. (Court No.5) Pune to J.M.F.C. (Court No. 1, 3 or 7) Pune. He seeks liberty to file fresh application, if necessary in respect of the said prayer. Liberty granted as prayed for in respect of the said prayer.

3. However, the applicant has prayed for quashing of Complaint Nos. 673/2004 to 682/2004 and complaint No. 737/2004 to 748/2004 which are pending in the Court of learned Judicial Magistrate, First Class, Court No.5, Pune. In the said cases, process has been issued against the applicant under Section 138 of Negotiable Instruments Act. The learned advocate for the applicant submitted that the learned Magistrate committed an error in issuing process and the said process deserves to be set aside. If the process issued against the applicant is set aside, the proceedings in respect of the applicant would come to an end.

4. For the reasons recorded in my order dated 13th June, 2005 passed in Criminal Writ Petition No.213 of 2005 and order dated 21st June, 2005 passed in Criminal Application No. 550 of 2005, the applicant has an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my opinion, it would be appropriate that the applicant prefers revision before the concerned Sessions Court against the order of the Magistrate issuing process.

5. Liberty is granted to the applicant to prefer revision before the concerned Sessions Court. The

learned advocate for the applicant states that the necessary revision would be preferred within a period of four weeks from today. In view of this statement, the trial Court shall not proceed with the trial for a period of four weeks from today. The learned advocate for the respondent No.1 i.e. original complainant fairly states that no objection would be raised in respect of delay in filing revision before the learned Sessions Court.

6. On the necessary revision being preferred by the applicant before the concerned Sessions Court, the concerned Sessions Court shall dispose of the same on merits after hearing necessary parties.

7. Application is disposed of.

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